IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

Crl.MC.No. 1903 of 2007()

CC.19/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KATTAPPANA

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PETITIONER: ACCUSED

SABU MANI, S/O. MANI,
VALLIYAMPOIKAYIL HOUSE, SANYASIODA P.O.,
IDUKKI DISTRICT.

BY ADV. SRI.S.SACHITHANANDA PAI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1903 of 2007

Dated this the 13th day of June, 2007

ORDER

Petitioner is the 3rd accused in C.C.No.19 of 2007 on the file of the Judicial Magistrate of the First Class, Kattappana. F.I.R was registered on 04.10.2003. Charge sheet was filed on 23.12.2006. In the final report, allegations are raised against four accused persons under Sections 379, 465 and 411 read with 34 I.P.C. The learned counsel for the petitioner contends that the allegations against the petitioner are totally false and unsustainable. Proper investigation has not been conducted. A reading of the final report must itself suggest to the Court that the Investigating Officer only wanted somehow to close the investigation and relieve him of the obligation to continue the investigation. The learned counsel for the petitioner further submits that the cognizance taken is barred by limitation. It is, in these circumstances, prayed that powers under Section 482 Cr.P.C may be invoked and the proceedings against the petitioner may be quashed.

2. I have heard the learned counsel for the petitioner. I have perused the records produced in this case. Having considered all the relevant inputs, I am satisfied, that the interests of justice will be served ideally by directing the learned Magistrate to consider the

contentions raised by the petitioner at the stage of Section 239/240 Cr.P.C. I further direct that the personal appearance of the petitioner shall not be insisted by the learned Magistrate until the plea of discharge is considered at the stage of Section 239/240 Cr.P.C. Till then, the petitioner shall be permitted to appear through counsel. Only if the learned Magistrate finds that charges are liable to be framed under Section 240 Cr.P.C, shall the learned Magistrate insist on the personal appearance of the petitioner.

3. This Crl.M.C is, dismissed with the above observations.

(R.BASANT, JUDGE)

rtr/-